

★ MAR 28 2017 ★

BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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WALLACE CARTER-MITCHELL,

Petitioner,

MEMORANDUM AND ORDER

- against -

12-cv-2361 (SLT)

DUKE TERRELL, WARDEN

Respondent.
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TOWNES, United States District Judge,

Pro se Petitioner Wallace Carter-Mitchell initiated this habeas action pursuant to 28 U.S.C. § 2241 (“Section 2241”) in May of 2012. His petition challenged nearly 30 different prison disciplinary proceedings on due process grounds and requested injunctive relief as a result of an incident of alleged sexual assault at the Metropolitan Detention Center in Brooklyn, New York (“MDC Brooklyn”), where he was briefly incarcerated from November 2011 to April 2012. The Court denied his petition in January 2017. (*See* ECF No. 61). Now before the Court is Petitioner’s motion for relief from judgment under Federal Rule of Civil Procedure 60(b)(1). (ECF No. 62).

Because final judgments “should not be lightly reopened,” Rule 60(b) is properly “invoked only upon a showing of exceptional circumstances.” *Nemaizer v. Baker*, 793 F.2d 58, 61 (2d. Cir 1986) (internal quotations and citations omitted). Indeed, “[t]he standard for granting such a motion is strict, and reconsideration will generally be denied unless the moving party can point to controlling decisions or data that the court overlooked—matters, in other words, that might reasonably be expected to alter the conclusion reached by the court.” *Shrader v. CSX Transp., Inc.*, 70 F.3d 255, 257 (2d Cir.1995) (citing cases). Likewise, ““A motion for

reconsideration should be granted only when the defendant identifies an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice.” *Kolel Beth Yechiel Mechil of Tartikov, Inc. v. YLL Irrevocable Trust*, 729 F.3d 99, 104 (2d Cir. 2013) (quotation marks omitted).

Here, Petitioner generally repeats the arguments made in his traverse, contends that the Court overlooked arguments that it rejected, and does not identify new evidence, overlooked facts, or clear errors of law. His contentions that the Court made “findings” with respect to his status as a serial filer and relied on “findings” made in his prior suits misreads the order denying the instant petition. The Court squarely addressed and rejected the claims made here on the merits. Accordingly, this motion is **DENIED**. No certificate of appealability shall issue.

SO ORDERED

/s/ Sandra L. Townes
SANDRA L. TOWNES
United States District Judge

Dated: March 27, 2017
Brooklyn, New York